REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-26 remain pending in this application.

In the outstanding Official Action, Claims 1-2, 9-12, 14-16 and 22-25 were rejected under 35 U.S.C. § 102(e) as being anticipated by Khan (U.S. Patent No. 7,079,856); Claims 5-6, 13, and 17-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Khan in view of Hwang et al. (U.S. Patent No. 7,082,108, hereinafter "Hwang"); Claims 3-4 and 7-8 were indicated as containing allowable subject matter; and Claims 19-21 and 26 were allowed.

Applicants acknowledge with appreciation the allowance of Claims 19-21 and 26 and the indication that Claims 3-4 and 7-8 include allowable subject matter. Since Applicants consider that each pending claim includes allowable subject matter, the claims have not been amended herewith. Instead, Applicants respectfully traverse the outstanding grounds for rejection and request reconsideration and withdrawal thereof, for the reasons as next discussed.

Briefly recapitulating, a problem addressed by the present invention is the prevention of increase in the error rate in the communication of the uplink data, or stated differently, the prevention of a deterioration of quality in uplink communication. Thus, Applicants' invention aims to prevent an increase of error rate upon transmitting data of the communication terminal.

On the other hand, Khan addresses a different problem, i.e., to prevent the bottleneck of the user equipment (UE).

In view of the different problems being addressed, Applicants' pending Claims 1, 11, 16, 19 and 22-26 define different structure having different characteristics compared to that

disclosed by Khan so as to address the structural requirements peculiar to the problem being addressed.

In particular, according to the claimed invention, the communication terminal includes an overflow estimation means, estimating a simultaneous transmission, to a base station, of uplink data and an information signal (characteristic A). In addition, the communication terminal controls the data transmission to the base station (or conducts predetermined selection), in accordance with the estimation result of the overflow estimation means (or, when the overflow estimation means estimates an overflow) (characteristic B).

Thus, according to the claimed invention, at the communication terminal, the future simultaneous transmission of uplink data and information signal is estimated. Additionally, due to the structure of the overflow estimation means, the data transmission control (or predetermined selection) is conducted at the communication terminal.

On the other hand, in Khan's system, the UE sends a STOP control command to the base station, which then stops the data transmission to the UE. More precisely, the UE determines flow control is needed based on one or more conditions that lead to loss of received data (characteristic X). After determining whether the flow control is necessary or not, the data transmission control is conducted by the base station (characteristic Y).

In comparison of characteristics A and X, Applicants' invention estimates errors of the transmission data at the communication terminal, and to that end, the communication terminal includes the overflow estimation means to estimate a simultaneous transmission of uplink data and information signal to the base station. On the other hand, in Khan's system, the data flow condition is determined by the error condition of the received data at the UE. Accordingly, characteristic A of Applicants' invention is not disclosed or obviated by Khan.

Further, in comparison of characteristics B and Y, due to the structure of the above mentioned overflow estimation means, the data transmission control is conducted at the

communication terminal in Applicants' invention. On the other hand, in Khan's system, the data transmission control is conducted at the base station. Also in Khan's system, the UE does not conduct the predetermined selecting operation according to the estimation result of the communication condition. Therefore, Khan's UE does not include a selection means to selectively operate either an uplink communication prioritizing means or a downlink communication prioritizing means, in accordance with the estimation result of the communication condition. Thus, the requirement of the characteristic B of Applicants' invention is not disclosed or obviated by Khan.

Thus, it is respectfully submitted that the above mentioned characteristics A and B of Applicants' invention are neither disclosed nor obviated by Khan, and that the deficiencies in Khan are not remedied by Hwang. The outstanding grounds for rejection are therefore traversed and withdrawal thereof is respectfully requested.

Consequently, in view of the above discussion, Applicants respectfully submit that the present application is in condition for allowance and respectfully request an early and favorable action to that effect.

Respectfully submitted,

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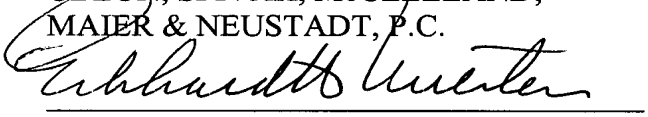

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